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# British Exceptionalism Causes Brexit Conundrum

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## Abstract:

This paper examines the shortcomings in the UK government's Brexit negotiation strategy which reflected Prime Minister Theresa May's weak political leadership which focused on securing the short-term political survival of her government amidst turbulent and fractious domestic politics, over negotiations with the EU27. Brexit negotiations were poorly planned, and the UK government was woefully unprepared. Brexit also threatened a serious re-opening of old wounds in Northern Ireland, as debate grows around the prospect of a united Ireland inside the EU. UK politics is in turmoil and in a chronic crisis. What route the Brexit saga takes next is uncertain. But the crossroads is approaching – either the UK leaves by 31 January 2020 with no deal or passes the deal the Boris Johnson has negotiated with the EU27. The Brexit process has revealed the weakness of Westminster's insular politics seemingly incapable of running a modern economy and society. Westminster's politics are becoming more not less dysfunctional. The phenomenon of British exceptionalism towards the EU is set to take a new dramatic turn, while the UK's chaotic political divisions will not disappear any time in the foreseeable future. The result of the 12 December 2019 General Election may even complicate the Brexit Conundrum.

**Keywords:** Brexit, European Union, United Kingdom

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## 1 Introduction

The shortcomings in the UK government's Brexit negotiation strategy which reflected Prime Minister Theresa May's weak political leadership which focused on securing the short-term political survival of her government amidst turbulent and fractious domestic politics, over negotiations with the EU27. Brexit negotiations were poorly planned, and the UK government was woefully unprepared. Brexit also threatened a serious re-opening of old wounds in Northern Ireland, as debate grows around the prospect of a united Ireland inside the EU. UK politics is in turmoil and in a chronic crisis. What route the Brexit saga takes next is uncertain. But the crossroads is approaching – either the UK leaves by 31 January 2020 with no deal or passes the deal the Boris Johnson has negotiated with the EU27. The Brexit process has revealed the weakness of Westminster's insular politics seemingly incapable of running a modern economy and society. Westminster's politics are becoming more not less dysfunctional. The phenomenon of British exceptionalism towards the EU is set to take a new dramatic turn, while the UK's chaotic political divisions will not disappear any time in the foreseeable future. The result of the 12 December 2019 General Election may even complicate the Brexit Conundrum. If a no-deal Brexit becomes a reality, it may not only be a sore awakening for Boris Johnson and his government, but also for the United Kingdom.

## 2 The Withdrawal Agreement

The Republic of Ireland and the United Kingdom have a long, shared history in Europe. They agreed a common travel area in the 1920s and joined the European Union together in 1973. This means that there has never been a moment when one country was in the EU and the other not. However, this would come crashing down in June of 2016 when the UK voted to leave the EU and make laws – and life – at the border ever more complicated (Sheridan 2019).

On 24 June 2016, the day after the EU referendum, the European Union and the Irish Government started their Brexit contingency planning and started to voice concerns about the Good Friday Agreement and the re-emergence of a hard land border (Rogers 2017). The Good Friday Agreement which was signed on 10 April 1998 is both an international agreement between the British and the Irish governments, and the basis for reformed government in Northern Ireland. It has three dimensions: an internal Northern Ireland dimension,

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providing for a Northern Ireland government based on power-sharing between nationalists and unionists; a North-South dimension, establishing mechanisms for greater co-operation between Ireland and Northern Ireland; and an East-West dimension, with mechanisms facilitating relations between Ireland and the various parts of the United Kingdom. Addressing the three sets of relationships was the basis for the peace process, and rights were one of the central instruments for achieving this. If left unresolved, this issue would bring back the checkpoints of the past for trade and travel, and many feared it would bring back the violence of the past too.

It was for this reason that the Irish Prime Minister (Taoiseach) Enda Kenny visited the UK prime minister in July 2016, the month that Theresa May took office, to secure a public assurance that there would be no return to hard borders. As Kenny did so, the EU threw its weight behind Ireland as well and announced that the border issue would need to be resolved if the UK wanted to leave with a deal. (O'Rourke 2018)

In December 2017, May was suggesting that she would sign up to 'regulatory alignment' between Northern Ireland and the Irish Republic, which would successfully avert a hard border. However, the Irish government was reluctant to trust her. Decades of negotiations with the British government over Northern Ireland had taught the Irish that the UK frequently fails to deliver on its promises.

The most fraught negotiations were over the UK's border with Ireland. The EU27 were firm that there would be no hard border on the island of Ireland, and the UK government agreed, but this was hard to square with the UK government's determination to leave the EU Customs Union and Single Market, which implied new border checks. In August 2017 the UK tabled a proposal for a UK-EU customs partnership arrangement under which both parties could have different external tariffs and rules of origin and yet have frictionless trade between them (HM Government 2017d).

A no-deal Brexit (Walker and Elgot 2019) and the threats to the Good Friday agreement (McDonald 2019) would force the people of Northern Ireland to consider a border poll and the possibility of a United Ireland (Whysall 2019). One possibility might be a border poll in Northern Ireland concurrent with a constitutional referendum in the south. The interim constitutional arrangements would preserve the *status quo* within Northern Ireland as much as possible, continuing both devolution and compulsory power-sharing but swapping the roles played by Dublin and London. The political dynamics unleashed by Brexit may make a border poll inevitable. The Republic of Ireland referendum would redefine the national territory to include Northern Ireland but would then also prescribe (a) interim constitutional arrangements and (b) a set of more extensive constitutional changes that would apply five years later in default of (c) a new constitution being enacted by plebiscite on an all-island basis. Planning for a possible vote for a United Ireland in both jurisdictions needs to be enacted (Doyle 2019). Based on their early actions, the European Union (European Commission 2019) and the Irish government (Government of Ireland 2019) have fully developed Brexit contingency plans in place.

### 3 Prime Minister May Brexit Strategy Fails

#### 3.1 Preparing to Negotiate and a General Election

On July 11, 2016, the Conservative Party chose Theresa May to replace David Cameron. Subsequently, Prime Minister Theresa May's record on Brexit revealed a high degree of opportunism, a certain skill in calculating domestic political odds, and a willingness to risk the economic well-being of the British people for the short-term political self-interest and for the interest of her party (Shipman 2016).

Before the June 2016 referendum, at a meeting in London with executives of Goldman Sachs, Theresa May explained with clarity and force why it would be economic folly for Britain to leave the EU. In a crucial passage of her speech she said: "I think the economic arguments are clear. I think being part of a 500 million trading bloc is significant for us, I think ... that a lot of people will invest here in the UK because it is the UK in Europe (Clarke, Goodwin, and Whiteley 2017). If we were not in Europe ... there would be firms and companies who would be looking to say, do they need to develop a mainland Europe presence rather than a UK presence? So, I think there are definite benefits for us in economic terms" (Hopkins and Mason 2016).

May began her premiership with a simple – if enigmatic – definition of leaving the EU: "Brexit means Brexit" (Mctague 2019b). By the time of her first Tory Party conference as prime minister in October 2016, she had clarified her position. Brexit meant controlling immigration from the EU, shrugging off the jurisdiction of EU courts and regaining the ability to strike independent trade deals.

"We are not leaving the European Union only to give up control of immigration all over again," she said, to the ovation of Tory members. "And we are not leaving only to return to the jurisdiction of the European Court of Justice. That's not going to happen. We are leaving to become, once more, a fully sovereign and independent country" (BBC News 2018f).

She made that speech without having thought through the consequences; no official could read it in advance (later she added no customs union to her list of red lines). In her speech Theresa May also promised to trigger Article 50 no later than the end of March 2017.

The stage looked set for the UK leaving the EU Customs Union and Single Market and negotiating a deal that would result in an arms-length relationship with the rest of the EU, based on a free trade agreement. May's government made strategic and tactical errors in the conduct of the negotiations. In that speech the prime minister was trying to curry favour with Tory Eurosceptics, especially when she said that "if you believe you are a citizen of the world, you are a citizen of nowhere – you don't understand what citizenship means" (The Independent 2016).

In a second speech at Lancaster House in London on 17 January 2017, Prime Minister May announced that the UK would indeed be leaving the single market and the EU Customs Union, which regulates the EU's trade in goods. This left her with little room for manoeuvre. In what would become a familiar refrain, she said: "No deal for Britain is better than a bad deal for Britain" (May 2017).

In February 2017 the UK government produced a paper which started to grapple with the question of the border with Northern Ireland, which became a central sticking point in the later negotiations. The White Paper recognised the need to 'find a practical solution that keeps the border as seamless and frictionless as possible, recognising the unique economic, social, and political context' (HM Government 2017f). The Article 50 letter stated that the UK wanted to 'avoid a return to a hard border'. Yet this objective was hard to reconcile with the UK's stated ambition of leaving the Single Market and Customs Union, both of which implied the introduction of physical checks at the border between Northern Ireland and the Republic of Ireland (Jones and Miller 2019).

The UK government 'triggered' Article 50 of the Treaty of the European Union in March 2017, thereby starting the clock on a two-year period within which to agree the terms of the UK's exit. The timing of the Article 50 letter triggering the withdrawal process was a tactical error because May had no plan for Brexit. And once the letter was sent, the clock started to tick: the UK would automatically leave on 29 March 2019, with or without a deal. This put the EU in a very strong position. Thus, even before any engagement with the EU, it was not clear how the UK could reconcile contradictions and ambiguities within parties, parliament and across the country and how it would generate a coherent negotiating position. This was a major flaw in the UK strategy and led the UK to table unrealistic negotiating proposals, including a proposal for the UK to have a customs arrangement with the EU that would ensure frictionless trade and avoid a hard border with Ireland, while also leaving the EU Customs Union in order to have a fully sovereign trade policy.

In the run up to formal negotiations with the European Union, Theresa May decided to call a snap general election in June 2017 in a bid to strengthen her negotiating hand. Her government was operating with a wafer-thin majority of only 12 MPs in Parliament and the prime minister was concerned that such a slim majority would enable opposition parties to frustrate the Brexit negotiations. Opinion polls showed the Conservative Party had a twenty-point lead over Jeremy Corbyn's Labour Party (Payne 2017) and May saw an opportunity to win a much larger majority and greater control over Parliament.

This move backfired spectacularly as Theresa May lost her Parliamentary majority altogether. The Prime Minister campaigned badly, on a manifesto that failed to win public support.

Meanwhile Jeremy Corbyn ran an effective grassroots campaign. The Conservative Party suffered a net loss of 13 seats, producing a hung Parliament. In order to secure a working majority in Parliament, Theresa May entered into an alliance with the 10 MPs from the socially conservative Democratic Unionist Party (DUP) of Northern Ireland who supported a 'hard' Brexit. Formal negotiations between the UK and EU27 began in July 2017, a year after the UK's EU referendum.

### 3.2 The UK Stumbles From Chequer's to a EU Deal

The most fraught negotiations were over the UK's border with Ireland. The EU27 were firm that there would be no hard border on the island of Ireland, and the UK government agreed, but this was hard to square with the UK government's determination to leave the EU Customs Union and Single Market, which implied new border checks. In August 2017 the UK tabled a proposal for a UK-EU customs partnership arrangement under which both parties could have different external tariffs and rules of origin and yet have frictionless trade between them (HM Government 2017e).

Under the UK's proposal, the UK would essentially implement two parallel systems at its borders. For goods coming into the UK that were destined for the EU27, the UK would act as an agent on behalf of the EU, levying EU tariffs and checking products met EU standards. For goods destined for sale in the UK, it would levy UK tariffs and check products met UK standards. The UK government acknowledged this would need a 'robust enforcement mechanism' and the tracking of goods to ensure that they reached their intended destination. (HM Government 2017e) The UK negotiators proposed also measures to streamline customs procedures, the use of

technology to enable any checks to be carried out virtually and continued regulatory alignment in agricultural products (HM Government 2017e).

Unsurprisingly, the UK's complex proposals were met with scepticism by the EU27 and few were persuaded that they were viable. Unable to agree on a detailed solution on the UK-Ireland border, the UK and EU27 agreed on a set of overarching principles. These focused on upholding the Good Friday Agreement; avoiding a hard border, including any physical infrastructure; and preserving the integrity of the UK's internal market, by ensuring that there would be no customs border between Northern Ireland and the rest of the UK.

Finally, in July 2018, only nine months before the UK was due to leave the EU, Theresa May held a Cabinet meeting at Chequers to forge an agreement about the UK's negotiating position on future UK-EU relations. After fraught discussions, the UK Cabinet published a White Paper, which finally set out the UK government's position in detail (HM Government 2018c).

The UK wanted future relations to be based on a free trade area for goods with the phased introduction of a Facilitated Customs Arrangement and a 'common rulebook' with the EU for goods. The Facilitated Customs Arrangement was based on the rejected August 2017 proposal. With regards to common rules, the UK proposed a binding treaty commitment to continued harmonisation with EU rules on agri-food (but not services); continued participation in EU regulatory institutions; a common rulebook on state aid; cooperation on competition measures, and a provision in areas including labour and environment. However, the UK was adamant that freedom of movement would end.

May gathered her warring cabinet at Chequers in a bid to set out a compromise negotiating position that had a chance of finding favour with the EU. But a perceived move towards a softer Brexit provoked an immediate backlash from the right of the party, prompting the resignations of Brexit Secretary David Davis and Foreign Secretary Boris Johnson from the cabinet and a fresh wave of plotting from members of the Eurosceptic European Research Group (ERG) determined to "chuck Chequers". This group were a right wing of Conservatives who wanted a Hard Brexit.

David Davis stated that 'the current trend of policy and tactics' was making it look 'less and less likely' that the UK would leave the Customs Union and the Single Market (BBC News 2018e). His resignation and that by Johnson was followed by eight other ministers and senior officials. Outside of Cabinet, the White Paper was criticised by MPs within the Conservative Party, particularly members of the ERG for ceding too much sovereignty, as well as by opposition parties. The UK Labour Party argued that it did not resolve the problems of the Northern Ireland border and that the Facilitated Customs Arrangement would be a 'bureaucratic nightmare, unworkable, and costly for businesses and reliant on 'technology that does not currently exist' (Starmer 2018).

Although the UK's position was unpopular at home, it nonetheless formed the basis of UK proposals to the EU27. Theresa May sought to use an informal meeting of the EU27 leaders in Salzburg in September 2018 to pitch the UK's proposals to her counterparts, but she proved to be a poor diplomat. The Prime Minister insisted that the UK proposals, as set out in the White Paper, were the only viable option and appeared to be trying to impose them on the EU, a move that only served to antagonise EU leaders.

Eventually, after a series of missed deadlines, the UK and EU reached agreement on 14 November 2018 on a 585-page Withdrawal Agreement and an accompanying 26-page Political Declaration (European Council 2018). Several areas of the Withdrawal Agreement remained largely unchanged from the March 2018 draft agreement, including on citizens' rights. The Agreement included a review clause, providing for the extension of the transition period if agreement on future relations had not been reached by the end of the 21-month transition period. It also provided for the use of independent arbitration to resolve disputes during the transition period, although matters of EU law would be referred to the ECJ.

Crucially, the Withdrawal Agreement included a lengthy Protocol on Northern Ireland, which came to be known as the 'backstop', designed to prevent the return of a hard border in the island of Ireland. This was ensured through a hybrid of two mechanisms. It had UK-wide elements, providing for the creation of a single customs territory between the EU and UK in the event that the UK and EU fail to reach an agreement on future relations by the end of the transition period. It also had elements that only pertained to Northern Ireland, committing the region to continued harmonisation of a series of EU technical rules and regulations, while the rest of the UK could diverge from them (European Council 2018).

Reflecting continuing disagreement on the nature of future UK-EU relations, the Political Declaration was not the substantive and detailed document that the UK and EU negotiators had promised. While expressing a high level of ambition about the nature and scope of the future relationship, the document only set out a series of options for the UK's trade with the EU and established a framework for ongoing conversations across a range of areas.



### 3.3 The Unloved and Unwanted Deal is Rebuffed by the UK Parliament

Within the UK, Theresa May needed to win over a majority in Parliament. The role of the UK Parliament in the Brexit ratification process had been strengthened by an amendment to the EU Withdrawal Act that had passed in 2017 and required any Brexit deal to be enacted by statute rather than implemented by government order. This ensured that the UK Parliament would be given a final ‘meaningful’ vote on the Withdrawal Agreement.

It rapidly became clear that the Withdrawal Agreement and Political Declaration did not have the backing of most MPs in the UK Parliament. Given the delicate parliamentary arithmetic, Theresa May needed virtually all Conservative and DUP MPs to vote in favour of the deal. Yet Eurosceptic Conservative MPs strongly opposed the wording of the Northern Ireland backstop arguing that it could permanently ‘trap’ the UK into a customs union with the EU. The backstop also crossed a red line for the DUP as it implied regulatory checks between Northern Ireland and the rest of the UK. At the other end of the political spectrum, pro-European Conservatives disliked the Withdrawal Agreement as it failed to ensure frictionless trade with the EU27. Meanwhile the Labour Party and smaller opposition parties were united in their opposition to the Agreement.

Considering the strong parliamentary opposition, Theresa May withdrew the ‘meaningful vote’ on the Withdrawal Agreement on 10 December 2018, one day before it was scheduled. She announced that the vote would be held in January 2019 and she would, meanwhile, seek further assurances from the EU about the Northern Ireland backstop (Sparrow 2018c). Her strategy focused exclusively on winning over members of the European Research Group.

However, rebellious Tory MPs triggered a No Confidence vote in May’s Tory party leadership. Surviving the confidence vote by 200–117 on 12 December 2018 was enough to stave off Theresa May’s immediate resignation. However, it left her too weak to take back control of her party. Subsequently, Prime Minister May confirmed to television cameras the pledge that she would not lead the party into the next general election (Sparrow 2018b).

Back in Brussels, EU leaders were resolute in their determination not to re-open negotiations, but they did issue formal statements aimed at reassuring UK MPs. The statement from EU leaders fell short of the legal commitment Theresa May had hoped for and failed to reassure Eurosceptic MPs. The meaningful vote on the Withdrawal Agreement took place in 15 January 2019 and the government suffered the largest defeat of any government in modern parliamentary history, losing by 230 votes. This prompted the Labour party to table a motion of No Confidence, which the government narrowly won on 16 January 2019 by 325 to 306 (Stewart, Elgot, and Walker 2019).

The Brexit negotiations precipitated a political and constitutional crisis in the UK. Following tough negotiations with the 27 other EU member states, the UK finally agreed a Withdrawal Agreement only to have it resoundingly defeated in the UK Parliament. The government suffered the largest defeats in modern parliamentary history, and, in another historic first, MPs found the government to be in contempt of Parliament. To the deep frustration of the 27 EU members states with whom the UK was negotiating, Theresa May went back to Brussels yet again to try and seek changes to an agreement that had been finalised. With only a few days to go before the UK was due to leave the EU, no deal was in place, and the UK government had no plan for resolving the crisis, determined instead to keep bringing its deeply unpopular deal back to Parliament, a move the Speaker of Parliament ruled out as breaking parliamentary convention. (Elgot 2019).

Following the government’s defeat, Theresa May promised to change approach and be ‘more flexible, open and inclusive’ in engaging with Parliament. For the first time she looked to win over Labour MPs, promising to ‘embed the strongest possible protections on workers’ rights and the environment’. In early February Theresa May held her first proper discussions with opposition parties.

While the EU27 may have been amenable to many of the Labour Party’s proposals, accepting them would alienate the Eurosceptic MPs and risk splitting the Conservative Party, a move that Theresa May was still not prepared to make. Instead the prime minister adopted a strategy of ‘running the clock down’ hoping that, as the March 29 deadline for leaving the EU approached and the risk of leaving without a deal increased, more MPs would support the Withdrawal Agreement.

Following more talks in Brussels in early March, Theresa May secured a package of interpretations and clarifications on the Withdrawal Agreement and Political Declaration, but once again, these changes did not go far enough to win a majority in Parliament, and the UK government lost a second meaningful vote on 12 March 2019 by 149 votes (Sparrow 2019a).

The EU27 agreed to extend the Article 50 deadline but rejected the UK’s proposed extension date. Following intense internal negotiations and reported tensions between German chancellor Angela Merkel and President Emmanuel Macron of France, the EU leaders offered an extension until 22 May 2019, provided that the Withdrawal Agreement “is approved by the House of Commons next week”. In the event that the Withdrawal Agreement was not approved, the European Council offered a shorter extension until 12 April 2019 stating that it “expects the United Kingdom to indicate a way forward before this date for consideration by the European Council”. The 12 April date was chosen as it was the last point at which the UK, by law, must state if it was to participate in elections for the European Parliament, scheduled for May 2019 (European Council 2019b).

Having secured a brief respite, backbench MPs held a series of ‘indicative votes’ on different Brexit scenarios to try and break the parliamentary deadlock. But, despite two rounds of voting, there was no majority for any of the options tabled. Meanwhile Theresa May, still determined to get the Withdrawal Agreement passed rather than change her negotiating strategy, found a way to navigate parliamentary procedure and hold a third meaningful vote on 29 March 2019 by tabling the Withdrawal Agreement on its own (without the Political Declaration). But the government was defeated once again (Hughes and Parker 2019).

With neither the UK government nor backbench MPs able to find a way forward, Theresa May placed the UK’s fate in the hands of EU leaders, writing once again to Donald Tusk asking for the Article 50 deadline to be extended to 30 June 2019 (Stewart and Boffey 2019).

With the UK government failing to show leadership, backbench MPs tried to exert control over the Brexit process. A parliamentary motion to reject a No Deal scenario, which the government opposed, passed by a slim majority. Then, in a surprise turn of events, Theresa May was blocked from bringing the Withdrawal Agreement and Political Declaration back to the UK Parliament by the Speaker, on the basis of a 400-year old guide to parliamentary procedure. These events prompted Theresa May to write to Donald Tusk, President of the European Council on 20 March 2019, to ask for an extension to Article 50 until 30 June 2019 (BBC News 2019d).

### 3.4 Article 50 Extension to 31 October 2019

EU leaders held an emergency summit on 10 April 2019 to consider their response, with Theresa May appearing in front of them to formally present the UK’s request. After an intense debate they offered the UK an extension until 31 October 2019, providing the UK with six months to try and find a way through its fraught domestic politics.

At the special European Council summit on 10 April 2019, the UK and EU27 leaders agreed to extend the Article 50 process until 31 October 2019, with a possibility to terminate the extension once the Withdrawal Agreement is ratified. The Council conclusions explain, “If the Withdrawal Agreement is ratified by both parties before this [31 October], the withdrawal will take place on the first day of the following month.” They also state that the Withdrawal Agreement will not be renegotiated and that the “extension cannot be allowed to undermine the regular functioning of the Union and its institutions,” adding that the UK committed “to act in a constructive and responsible manner throughout the extension in accordance with the duty of sincere cooperation.” If the UK does not hold European Parliament elections, it will leave the EU on 1 June. There will also be a review of the situation at the Council meeting in June (European Council 2019a).

The full conditions for the extension agreement until 31 October were as follows:

- The flexible extension of the Article 50 period can only last until 31<sup>st</sup> October 2019, although if the Withdrawal Agreement is ratified by the UK and EU before then, Brexit Day becomes the first day of the following month.
- The extension cannot be allowed to undermine “the regular functioning of the Union and its institutions” so if the UK has not ratified the Withdrawal Agreement by 22<sup>nd</sup> May, it must hold European Parliament elections on 23<sup>rd</sup> May.
- The Withdrawal Agreement cannot be re-opened and “any unilateral commitment, statement or other act should be compatible with the letter and the spirit of the Withdrawal Agreement and must not hamper its implementation”.
- If the position of the UK were “to evolve”, then the European Council “is prepared to reconsider the Political Declaration on the future relationship”.
- During the extension, the UK remains an EU Member State with full rights and obligations and has a right to revoke its Article 50 notification at any time.
- The principle of sincere cooperation will continue to apply to the UK and during the extension the UK will “refrain from any measure which could jeopardise the attainment of the Union’s objectives, in particular when participating in the decision-making processes of the Union”.
- The European Council will review progress at its meeting in June 2019 (European Council 2019a).

### 3.5 A failure of Political Leadership

The UK government’s Brexit negotiating strategy was surprisingly weak given its strong civil service and cadre of experienced diplomats. The Brexit negotiations illustrate the vital role that political leadership plays in international negotiations. Although the UK civil service was woefully unprepared at the outset of the Brexit

negotiations, it upskilled fast, redeploying experienced civil servants from other areas. Responsibility for the UK's weak performance lies with its political leaders, particularly Prime Minister May's failure to negotiate within her own Cabinet and to forge political alliances. It was this failure of political leadership that led the UK government to pursue an incredibly important and complex set of negotiations without having confronted the inevitable trade-offs and without having attained real clarity about its negotiating objectives.

Prime Minister May never developed a proper strategy for Brexit, and the texts that the two sides discussed were EU texts. The UK failed to produce its own proposals, which allowed the EU to set the agenda. When May finally came up with a blueprint for the future relationship, in June 2018 – the so-called Chequers plan (Department for Exiting the European Union 12 July 2018) and its associated white paper far too late to make much impact on the EU.

The UK local elections took place on 3 May 2019 were the Conservatives lost over 1000 councillors and control of several councils which weakened Prime Minister May position. Labour suffered some losses, while the Liberal Democrats were up by 705 and the Greens increased their tally by 194 councillors. Independents also fared well, gaining 660 council seats. On 7 May 2019, Cabinet Office Minister David Lidington confirmed that the UK would take part in European Parliament elections on 23 May 2019.

At a meeting of the Conservative backbenchers 1922 Committee on 16 May 2019, Theresa May agreed to set a timetable for her departure as Prime Minister. On 23 May 2019 the UK voted in the European Parliament elections. The results were another humiliating defeat for Theresa May, while the newly founded Brexit Party won 29 seats, leaving UKIP without any seats for the first time since 1999. The Liberal Democrats won 16 seats, the most they have won since 1979, the first direct elections to the European Parliament. The Greens won seven seats, also a record number for that party. Labour won 10 seats and the Conservatives won four – their lowest number of seats since 1979. The crushing historic defeat meant that support for the Conservative Party dropped to 8.8 percentage, down from 23.3 percentage in 2014, while Nigel Farage's newly formed Brexit Party took 30.4 percentage of votes.

Theresa May's early red lines, designed to please the Brexit wing of her party, boxed her in negotiations with the EU. At the same time, she did not find the vision and words to sell her deal with the EU to the UK Parliament. Her rigidity, extreme reserve and lack of persuasive qualities and woeful electoral record were striking in someone who made it to the top job in UK politics.

## 4 No Deal Brexit becomes a Clear and Present Danger

### 4.1 The Possible Economic Consequences of Johnson's No Deal Brexit Strategy

Prominent Brexit advocate Professor Patrick Minford, who chairs Economists for Free Trade advocated securing a trade deal with the US is an essential part of the strategy to get some sense out of Brussels as far as a trade deal is concerned: "What a US trade deal would do would be to open up our markets to US goods, both food and manufactures, in return for UK tariff-free access to US goods markets and easier access into US services markets, where we already operate fairly freely in practice. From the EU viewpoint it is the former that matters: US barrier-free supply of food and manufactures into the UK market would mean that UK prices would fall sharply in response to the more or less infinite (relative to the UK market) availability of supplies from efficient and large US suppliers at best world prices... What then happens to EU attitudes? Already no doubt 'softened up' by worries about losing the £39 billion promised in the Withdrawal Agreement, these attitudes are now transformed by the new economics of failing to do a trade deal, that's what" (Minford 2019).

The Irish Government is also certain to look to allies in the US congress for support. Concerns there over the impact of a hard border on the Good Friday Agreement are rising. Congressman Richard Neal, chair of the House Ways and Means Committee, which has authority over trade deals, has said "any negotiation of a bilateral trade agreement with the UK [...] needs a firm commitment on no hard border" (Lynch 2019). This was reiterated by Nancy Pelosi, the Speaker of the US House of Representatives, on a recent visit to the UK when she declared at the London School of Economics that "if there's any harm to the Good Friday accords – no trade treaty" (RTE News 2019).

International Trade Secretary Liam Fox told the BBC's Andrew Marr Show, "If you don't get the Withdrawal Agreement through Parliament, there is no implementation period during which we can do anything at all," adding, "If we leave the European Union without a deal the EU will apply tariffs to the UK because you can only have exemptions ... if you already have a trade agreement to go to." Fox also said that in a No Deal scenario, the UK could not refer to Article XXIV of the General Agreement on Tariffs and Trade (GATT) in order to have a tariff-free transition period, and negotiate a free trade agreement with the EU during this period (BBC News 2019c).



Meanwhile, the *Financial Times* reported that Attorney General Geoffrey Cox warned in guidance to civil service officials that it would be a “breach of WTO law” if the UK did not apply tariffs to EU imports and applied them to the rest of the world in a No Deal Brexit scenario (Pickard 2019). Boris Johnson may well conclude that his best course of action is simply to await the end of the extension negotiated by his predecessor and hope that the impact of leaving the EU without an agreement is less catastrophic in the short term than has been predicted.

The political fallout associated with the economic hit of No Deal – or any form of harder Brexit – should not be underestimated (Bank of England 2019). There is a range of different ways to forecast the cost of hard Brexit scenarios. We know that higher barriers to trade, investment and migration will damage UK productivity growth; or that British consumers will be forced to buy more expensive imports or lower quality British alternatives, hitting living standards. It will probably be a mix of the two, but that mix is hard to quantify. What is more, the Brexit referendum in 2016 coincided with robust global growth. With signs of a slowing global – and European – economy, the costs of Brexit would be more acute. The immediate damage would be enormous, if only because of the uncertainty and the lack of preparation, both among governments and companies both in Britain and the EU (Partington 2019).

The Bank of England’s Decision Maker Panel is a large and representative survey of firms that provides one way to explore the uncertainties associated with Brexit. The Decision Maker Panel responses suggest that the uncertainties around Brexit have been primarily about the impact on businesses over the longer term rather than shorter term and that there has been substantial uncertainty about the timing of any transition arrangements and whether Brexit will take place in a smooth way. Overall, substantial uncertainties remain (Bloom et al. 2019).

There will also be an economic impact on the EU27, with member states trading most intensively with the UK – Ireland in particular – most affected. The answer from external analysts, such as the IMF, is unambiguous: No Deal will damage the British economy and is a risk for the global economy (IMF 2019). Even if similar analyses by the likes of the Bank of England are summarily dismissed on the grounds of pro-EU bias, the same conclusion has been drawn by all but a tiny minority of commentators (Simons 2019).

Much the same is true of the public finances. The Office for Budget Responsibility (OBR), in its 2019 Fiscal Risks Report, (Office for Budget Responsibility July 2019) used the IMF scenario as a basis for estimating the fiscal consequences of No Deal. As the OBR puts it, the scenario “is not necessarily the most likely outcome and it is relatively benign compared to some”, but it would nevertheless add £30 billion a year to public debt from the 2020–2021 fiscal year onwards. By fiscal year 2023–2024, public debt will have increased by 12 percentage points of GDP, undoing the effects of the last decade of austerity and pushing debt well above the level reached in the aftermath of the financial crisis. The OBR states that a more disorderly Brexit “could hit the public finances much harder”. The fall in tax revenue is forecast to significantly outweigh any benefit from no longer paying the UK’s subscription fee as a member of the EU (Office for Budget Responsibility July 2019).

The Confederation of British Industry (CBI) has warned the government that neither the UK nor the EU is ready for a No Deal Brexit on 31 October. “While the UK’s preparations to date are welcome, the unprecedented nature of Brexit means some aspects cannot be mitigated,” said the CBI. The advice is based on a study of existing plans laid out by the UK government, the European Commission, member states and firms. ‘And although businesses have already spent billions on contingency planning for no deal, they remain hampered by unclear advice, timelines, cost and complexity,’ the CBI said. “Larger companies, particularly those in regulated areas such as financial services, have well-thought-through contingency plans in place, though smaller firms are less well prepared.” (Confederation of British Industry 2019) Looking at the EU, the study slammed the EU’s claim that it is much better prepared for the fallout of a No Deal this autumn. The CBI urged Brussels to agree ‘temporary standstills’ on regulations and controls to avoid chaos (Confederation of British Industry 2019).

In comparison, the Federation of Small Businesses (FSB) said the lack of preparedness among its members was “frightening”, while the British Chambers of Commerce (BCC) said industry’s questions about how to prepare had “gone unanswered”. The Institute of Directors (IoD) said guidance from government had been partial and was yet to be properly road tested.

A paper published by the Center for Economic Studies (CES) at the ifo Institute in Munich shows that the Brexit referendum has led to a substantial increase in the number of foreign direct investment transactions undertaken by UK firms in EU27 countries. The increase is entirely concentrated in the services sector, with no discernible effect for manufacturing (Breinlich et al. 2019).

The National Institute of Economic and Social Research (NIESR) estimate that the negative shock on impact, without accounting for any policy response, may be in the region of some 2–3 percentage of GDP, around one third of the size of the financial shock that triggered the financial crisis. But policymakers have room to inject monetary and fiscal stimulus to stabilise output. NIESR said that there was evidence to suggest that inward FDI has stalled somewhat as well and the UK might also expect some fall in net exports (NIESR August 2019).

While leading to a somewhat smoother adjustment, expansionary monetary and fiscal policy measures would not come without a longer-term cost. As a result of looser borrowing conditions, the risk of asset price inflation rises and levels of private and public debt would increase further from currently elevated levels. At the end of this response, we are then likely to have an economy that is more vulnerable to financial shocks and may reduce the space available to monetary and fiscal policy to react to shocks unrelated to the question of EU exit (NIESR August 2019).

An Institute of Government blog post contains an important caveat – it is near impossible unless the Speaker of the House is willing to bend convention. And of course, Bercow regards his role as to frustrate the executive and to facilitate the will of the elected House and will find some method to allow MPs to express their will (Thimont Jack 2019).

Institute of Fiscal Studies (IFS) says public borrowing will more than double in 2020 whatever the Brexit result. It also said the national debt – the sum total of all borrowing accumulated by the British state – would hit almost 90 percentage of GDP if Britain crashed out of the EU without a deal, its highest level since the mid-1960s. In a warning that a new wave of austerity could be introduced in the future to limit further debt increases, Paul Johnson, the director of the IFS, said: “You could well be on an upward spiral of debt and deficit – and in a world in which we have to go through another period of austerity to undo it” (Emmerson 2019).

UK in a Changing Europe projected a reduction in UK GDP per capita after ten years of between 2.3 percentage and 7 percentage under Johnson’s plan. The gap will be defined by whether we try to make up the loss by bringing in lots of immigrants and find a way to improve productivity. The best case scenario is a £16 billion hit to public finances per year. It’s £49 billion hit in the worst case. This will not be made up for by securing new free trade deals overseas. These agreements are tiny and inconsequential next to the European project. The government’s own analysis suggests that even at peak British negotiating success they would amount to an increase in GDP after 15 years of somewhere between 0.1 percentage and 0.2 percentage (The UK in a Changing Europe 2019).

People’s lives will be damaged. They will be poorer. They will be £2,250 a year worse off by 2034. The nation’s finances will be hurt. There will, in the end, be more austerity. And this will be done just as the world is most uncertain, amid a bitter trade war between China and the US, when the WTO is being brought to its knees by Donald Trump. Based on the reduction in trade alone, under May’s deal income per capita would have been 1.7 percentage lower than under membership. The equivalent figure for the Johnson deal is 2.5 percentage, while that for a World Trade Organization Brexit (no trade deal at all) is 3.3 percentage (The UK in a Changing Europe 2019).

There has been substantial debate around the impact of the UK leaving the EU without a deal, especially as the perceived probability of a ‘no deal’ scenario has climbed in recent months. The public debate has focused heavily on the size of the overall hit to GDP but has largely ignored important questions around the nature of the economic shock and what the appropriate macroeconomic response would be. A reduction in overall demand; temporary disruption to the supply side of the economy; and a permanent reduction in supply capacity.

## 4.2 The Backstop Complicates the Brexit Negotiations

In its handling of Brexit, the UK government has showed a large degree of ineptitude. It failed to plan for Brexit before the referendum and it has never quite caught up. Now, over three years after the decision was taken to leave the EU, Conservative party divisions continued to split the cabinet and sabotage attempts to clarify goals and strategy (Ryan 2016).

In June 2017 May compounded these difficulties by calling an election that lost the Conservatives’ parliamentary majority and made her party become dependent on the Democratic Unionist Party (DUP) to form a government. The DUP, a fiercely pro-union party that had opposed the 1998 Good Friday Agreement that brought peace to the island of Ireland, used its new leverage in Parliament to block any differentiated status for Northern Ireland after Brexit lest it weaken the union. Bowing to the DUP’s demands, Prime Minister May tried to appease her coalition partners by widening the alignment to encompass the UK as a whole, not just Northern Ireland. This in turn infuriated the other Brexiteers.

After first suggesting the UK would agree to some alignment between Northern Ireland and the Irish Republic, and subsequently suggesting regulatory alignment more broadly between the UK and the EU, it was clear that Theresa May would fail to provide a solution to the Irish border issue (HM Government 2017d). For this reason, the European Commission unveiled its own, “the backstop,” which would guarantee that the border remain open no matter what happened in the future. The backstop would ensure Northern Ireland remain integrated within the EU’s customs union and single market for goods, supplemented by an EU-UK customs union, until it was rendered unnecessary either by the future relationship itself, or other means (Cox et al. 2019). In layman’s terms, it is an insurance policy enabling the UK and EU to fulfil their shared commitment to respect the Northern Ireland peace agreement by keeping the border as open after Brexit as it is now (Murphy 2018).

The insertion of the Irish backstop into the Withdrawal Agreement would cause May's deal to be rejected in the UK Parliament in January 2019. It was the largest government defeat ever and it raised the prospect of the UK crashing out without a deal and plummeting Northern Irish politics further into crisis (Murphy 2018).

As many of the objections to the Withdrawal Treaty continue to relate to the backstop, there has been much discussion about alternative approaches to safeguarding an open border. After May's disastrous defeat, the UK and the EU committed to a programme of work to examine technological solutions, rather than political solutions, designed to avoid customs checks at the border. In support of this critical mission, the UK Government has since established an advisory group to take this work forward (HM Government 2019b). An Alternative Arrangements Commission has also been established by the Prosperity UK think tank to address the same issues. In both cases the focus has been on trusted trader schemes and other methods of maintaining controls while avoiding the need for border posts and searches of vehicles. Determined though the UK may be to come up with a concrete answer, neither the EU nor the Irish government – who have been unable to produce a workable technological solution of their own and who have noted that no country in the world uses such technology were are far from optimistic (Carroll and O'Carroll 2019).

Another alternative that has been suggested is that a time limit could be applied to the duration of the backstop. This would assuage the fears of Brexiteers that an indefinite backstop could keep Northern Ireland, or even the whole of the United Kingdom, locked in the EU in perpetuity. But the problem is that such an arrangement would negate the backstop as a viable policy. It is intended as an insurance policy if no other arrangements can be agreed – for as long as they are not agreed – so a time limit would render it worthless.

In Britain's continued mishandling of the Irish border and the backstop, a large degree of misunderstanding has been evidenced. Indeed, the lack of knowledge and understanding of Ireland goes to the highest levels of the British government (Cox et al. 2019). Karen Bradley, former Secretary of State for Northern Ireland for Theresa May, showed her ignorance of Irish politics by confessing that, "[...] when I started this job, I didn't understand some of the deep-seated and deep-rooted issues that there are in Northern Ireland." Bradley only discovered while Northern Ireland secretary that Northern Irish nationalists "don't vote for unionist parties and vice versa". In other words, until very recently, she had been incurious about one of the central issues of nineteenth- and twentieth-century British history (Carroll 2018).

In similarly out-of-touch remarks, the cabinet minister Priti Patel has suggested using the threat of food shortages – that is, bringing back an Irish famine – as leverage to change Ireland's position. The shameful proposal won no allies in Dublin, or anywhere else for that matter. Bringing similar embarrassment to Britain, Boris Johnson is said to have asked why Irish Prime Minister Leo Varadkar, who is of Irish Indian heritage, is not "called Murphy like the rest of them" (O'Reilly 2019).

The UK now accounts for just 13.4 percentage of Irish goods exports, down from 55 percentage in 1973. Ireland has made itself an attractive hub for multinationals, who now employ one in eight private sector workers and account for 90 percentage of goods exports. The UK share of Irish services exports has also declined to 16 percentage from 22 percentage a decade ago, with the bulk of those in sectors such as finance, insurance and information technology.

As part of its Brexit contingency plans, Ireland is also opening up new ferry routes to continental ports as alternative routes for Irish exports that rely on the so-called UK land-bridge, a transport route that connects Irish importers and exporters to international markets via the UK road and ports network. Under any Brexit scenario, Ireland's economy looks certain to become more European. By backing a no-deal Brexit, the DUP has enhanced the likelihood of a border poll in the foreseeable future and has put the question of Irish unification firmly back on the agenda (Leahy 2019). Brexit in any form has endangered the Good Friday Agreement, and given new life to identity politics in Northern Ireland. Until this is resolved, there was also scant chance of reviving power sharing at the Northern Ireland Assembly.

The Good Friday Agreement effectively ended a conflict that cost more than 3,500 lives. Historic enemies agreed to share power and respect each other's identities and beliefs. The genius of the agreement was compromise: everybody lost something, so everybody won something. Brexit has evolved into the exact opposite of that spirit. It is instead politics as a zero-sum game: a victory for me means a defeat for you. This approach is damaging enough for Britain, but it is disastrous for Northern Ireland (McDonald 2019).

The Irish Prime Minister (Taoiseach), Leo Varadkar, has stated repeatedly that the UK would face "enormous difficulties" in a no-deal Brexit, adding "the UK and Ireland would have responsibilities to honour the Good Friday Agreement and the peace process." In such a scenario, he said that both Governments would have to honour their commitment to no hard border in Ireland, adding "We would have to agree on full alignment on customs and regulations, so after a period of chaos we would perhaps end up where we are now, with a very similar deal" (Connelly 2019).

### 4.3 Boris Johnson's Brexit Gamble

Boris Johnson became Prime Minister on 24 July 2019. US President Donald Trump told a crowd in Washington: 'Boris is good. They call him Britain Trump' (Smith 2019). In contrast, German English-language service Deutsche Welle published an article with the title 'Boris Johnson's clowning glory' (Mudge 2019). Seen as Donald Trump's boastful mini-me by many with no electoral mandate from the British people for No Deal and with a record of ineffectiveness, ineptitude and intellectual laziness – Boris Johnson has nevertheless just been elected by the Tory party membership to become the Conservative party's leader and then by default the UK's prime minister (McTague 2019a).

In what can only be described as Brexit Britain's Trumpian moment, Johnson showed his political opportunism by adopting the Brexit Party's key policy of No Deal Brexit as the way to stem the rise of arch-Brexiteer Nigel Farage and to prevent the terminal decline of the Conservative party. Johnson's lack of a viable plan for government besides a No Deal Brexit raised the prospect of a repeat of his tenure as Mayor of London in which he achieved little in eight years and in which he wasted money with little in the way of tangible benefits for Londoners.

The political fallout associated with the economic hit of a Johnson-induced No Deal Brexit should not be underestimated. We know that higher barriers to trade, investment and migration will damage UK productivity growth; and that British consumers will be forced to buy more expensive imports or lower quality British alternatives, hitting living standards. It will be a mix of the two, but that mix is hard to quantify. What is more, the Brexit referendum in 2016 coincided with robust global growth. With signs of a slowing global – and European – economy, the costs of Brexit would be more acute now. The immediate damage would be enormous, if only because of the uncertainty and the lack of preparation, both among governments and companies both in Britain and the EU.

Clearly MPs damaged Johnson's hopes of forcing a No Deal Brexit through Parliament on 18 July 2019 when they voted by a large margin to prevent a future Johnson government from suspending Parliament to prevent it from voting against No Deal. But that does not mean Parliament can legislate to stop No Deal without the government's consent. There were some 47 Conservative MPs who defied the whip: 17, including the former digital minister Margot James, voted for the plan, while another 30 abstained, most notably Cabinet ministers at the time of the vote Philip Hammond, David Gauke, Rory Stewart and Greg Clark.

Johnson would be the third Tory PM in a row to get his fingers burnt trying to gain control over Eurosceptics by going to the polls. Johnson has moved the Conservative party to becoming a right-wing party with its moderate MPs disappearing through defections and resignations. The election on 12 December 2019 may show if this process affects moderate conservative voters (Parker and Barker 2019).

There were known to be several Conservative MPs who have had deep reservations about serving under a prime minister who is prepared to leave the EU without a Brexit deal on 31 October 2019. If that cannot be achieved, then the UK would face a general election. But in order to prevent a No Deal Brexit, there would need to be a new prime minister in place who is prepared to go to the EU to ask for a further extension before the 31 October 2019 deadline is reached.

Johnson wanted to ensure there is no hard-Irish border, even in a No Deal scenario, through so-called alternative arrangements – technological approaches by which customs and regulations checks would take place automatically, or away from the land border between the Republic of Ireland and Northern Ireland. The consensus among experts in the UK and the EU is that such technology is several years away from being useable, and there is not the slightest chance of a system being in place for 31 October 2019.

Chancellor Philip Hammond, International Development Secretary Rory Stewart, Justice Secretary David Gauke and de facto deputy Prime Minister David Lidington all handed in their resignation after Theresa May's final Prime Minister's Questions and before May formally handed in her resignation to the Queen. A total of 17 ministers from Theresa May's Government, including Penny Mordaunt, Liam Fox and Jeremy Hunt, were either sacked, resigned or retired. That is a purge of unprecedented scale. Dominic Cummings, the former head of the Vote Leave campaign, was appointed Senior Adviser to Boris Johnson. This is a now a radical right-wing Vote Leave Brexit government. Even before he stepped foot through the door of No.10, Johnson knew that others could drive the narrative of his premiership.

After the by-election in Brecon on 1 August 2019 which was won by the Liberal Democrats (Parker 2019), Boris Johnson has a technical working majority of one. Following the decision by Prime Minister Johnson on 28 August 2019 to prorogue Parliament, Westminster on 3 September 2019 voted to seize control of the parliamentary agenda (BBC News 2019b) and with an emergency motion it tabled for discussion a piece of legislation designed to take off the table the risk of a hard Brexit and impose on the PM the duty to seek with the EU a further extension under Article 50 TEU in case a deal had not been found (HM Government 2019a). The bill, which was drafted by Labour MP Hillary Benn, the Chairman of the Brexit Select Committee, was approved at record speed on 4 September 2019, by a majority of 328 to 301 – with the crucial vote of moderate Tory MPs –



and specifically requires the UK Government to seek an extension until at least 31 January 2020, thus further proroguing the UK membership in the EU, to buy extra time to arrange an orderly exit and avert a no-deal.

After a summer of brinkmanship and bad-tempered exchanges between Brussels and London, Boris Johnson struck a deal with the EU on 17 October (Rankin and Mason 2019). On 22 October the second reading of the Withdrawal Agreement bill was passed 329 to 299. The parliament voted against the three-day timetable for scrutiny by 322 to 308. (BBC News 2019a). On 28 October the EU27 agreed that it will accept the U.K.'s request for a flexible extension until 31 January 2020. The UK was due to leave the EU on 31 October 2019, but Boris Johnson was required to request an extension after Parliament failed to agree a Brexit deal. The prime minister had repeatedly said the UK would leave on 31 October deadline with or without a deal, but the law – known as the Benn Act – required him to accept the EU's extension offer. So, Boris Johnson's "do or die" pledge to leave by 31 October is no more – it is dead. This means that no-deal Brexit being taken off the table, at least until 31 January 2020 (Deutsche Welle 2019). There will be a General Election on the 12 December 2019 to resolve the Brexit conundrum.

## 5 Outlook

The political fallout associated with the economic hit of No Deal – or any form of harder Brexit – should not be underestimated. There is a range of different ways to forecast the cost of hard Brexit scenarios. We know that higher barriers to trade, investment and migration will damage UK productivity growth; or that British consumers will be forced to buy more expensive imports or lower quality British alternatives, hitting living standards. It will probably be a mix of the two, but that mix is hard to quantify. What is more, the Brexit referendum in 2016 coincided with robust global growth. With signs of a slowing global – and European – economy, the costs of Brexit would be more acute. The immediate damage would be enormous, if only because of the uncertainty and the lack of preparation, both among governments and companies both in Britain and the EU.

The phenomenon of British exceptionalism towards the EU is set to take a new dramatic turn, while the UK's chaotic political divisions will not disappear any time soon. With the right-wing populist Boris Johnson taking the country's premiership, Britain's Trumpian moment has arrived. Boris Johnson has raised the prospect of a No Deal Brexit which may not only be a sore awakening for Boris Johnson and his government, but also for the United Kingdom.

The political fallout associated with the economic hit of no deal – or any form of harder Brexit – should not be underestimated with vast political and economic ramifications.

The Brexit process has revealed the weakness of Westminster's insular politics seemingly incapable of running a modern economy and society. Westminster's politics are becoming more not less dysfunctional. Whether a general election could provide a way out of this mess, hangs in the balance.

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